

§ 2884.23**§ 2884.23 Under what circumstances may BLM deny my application?**

(a) BLM may deny your application if:

(1) The proposed use is inconsistent with the purpose for which BLM or other Federal agencies manage the lands described in your application;

(2) The proposed use would not be in the public interest;

(3) You are not qualified to hold a grant or TUP;

(4) Issuing the grant or TUP would be inconsistent with the Act, other laws, or these or other regulations;

(5) You do not have or cannot demonstrate the technical or financial capability to construct the pipeline or operate facilities within the right-of-way or TUP area; or

(6) You do not adequately comply with a deficiency notice (see § 2804.25(b) of this chapter) or with any BLM requests for additional information needed to process the application.

(b) If BLM denies your application, you may appeal the decision under § 2881.10 of this part.

§ 2884.24 What fees do I owe if BLM denies my application or if I withdraw my application?

If BLM denies your application, or you withdraw it, you owe the processing fee set forth at § 2884.12(b) of this subpart, unless you have a Processing Category 5 or 6 application. Then, the following conditions apply:

(a) If BLM denies your Processing Category 5 or 6 application, you are liable for all actual costs that the United States incurred in processing it. The money you have not paid is due within 30 calendar days after receiving a bill for the amount due; and

(b) You may withdraw your application in writing before BLM issues a grant or TUP. If you do so, you are liable for all actual processing costs the United States has incurred up to the time you withdraw the application and for the actual costs of terminating your application. Any money you have not paid is due within 30 calendar days after receiving a bill for the amount due.

§ 2884.25 What activities may I conduct on BLM lands covered by my application for a grant or TUP while BLM is processing my application?

(a) You may conduct casual use activities on BLM lands covered by the application, as may any other member of the public. BLM does not require a grant or TUP for casual use on BLM lands.

(b) For any activities on BLM lands that are not casual use, you must obtain prior BLM approval. To conduct activities on lands administered by other Federal agencies, you must obtain any prior approval those agencies require.

§ 2884.26 When will BLM issue a grant or TUP when the lands are managed by two or more Federal agencies?

If the application involves lands managed by two or more Federal agencies, BLM will not issue or renew the grant or TUP until the heads of the agencies administering the lands involved have concurred. Where concurrence is not reached, the Secretary of the Interior, after consultation with these agencies, may issue or renew the grant or TUP, but not through lands within a Federal reservation where doing so would be inconsistent with the purposes of the reservation.

§ 2884.27 What additional requirement is necessary for grants or TUPs for pipelines 24 or more inches in diameter?

If an application is for a grant or TUP for a pipeline 24 inches or more in diameter, BLM will not issue or renew the grant or TUP until after we notify the appropriate committees of Congress in accordance with 30 U.S.C. 185(w).

Subpart 2885—Terms and Conditions of MLA Grants and TUPs**§ 2885.10 When is a grant or TUP effective?**

A grant or TUP is effective after both you and BLM sign it. You must accept its terms and conditions in writing and pay any necessary rent and monitoring

fees as set out in §§ 2885.19 and 2885.23 of this subpart. Your written acceptance constitutes an agreement between you and the United States that your right to use the Federal lands, as specified in the grant or TUP, is subject to the terms and conditions of the grant or TUP and applicable laws and regulations.

§ 2885.11 What terms and conditions must I comply with?

(a) *Duration.* All grants with a term of one year or longer will terminate on December 31 of the final year of the grant. The term of a grant may not exceed 30 years. The term of a TUP may not exceed 3 years. BLM will consider the following factors in establishing a reasonable term:

(1) The cost of the pipeline and related facilities you plan to construct, operate, maintain, or terminate;

(2) The pipeline's or related facility's useful life;

(3) The public purpose served; and

(4) Any potentially conflicting land uses; and

(b) *Terms and conditions of use.* BLM may modify your proposed use or change the route or location of the facilities in your application. By accepting a grant or TUP, you agree to use the lands described in the grant or TUP for the purposes set forth in the grant or TUP. You also agree to comply with, and be bound by, the following terms and conditions. During construction, operation, maintenance, and termination of the project you must:

(1) To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations, and state laws and regulations applicable to the authorized use;

(2) Rebuild and repair roads, fences, and established trails destroyed or damaged by constructing, operating, maintaining, or terminating the project;

(3) Build and maintain suitable crossings for existing roads and significant trails that intersect the project;

(4) Do everything reasonable to prevent and suppress fires on or in the immediate vicinity of the right-of-way or TUP area;

(5) Not discriminate against any employee or applicant for employment during any phase of the project because of race, creed, color, sex, or national origin. You must also require subcontractors to not discriminate;

(6) Pay the rent and monitoring fees described in §§ 2885.19 and 2885.23 of this subpart;

(7) If BLM requires, obtain and/or certify that you have obtained a surety bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property incurred in connection with your use and occupancy of the right-of-way or TUP area, including terminating the grant or TUP, and to secure all obligations imposed by the grant or TUP and applicable laws and regulations. Your bond must cover liability for damages or injuries resulting from releases or discharges of hazardous materials. BLM may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or TUP. This bond is in addition to any individual lease, statewide, or nationwide oil and gas bonds you may have;

(8) Assume full liability if third parties are injured or damages occur to property on or near the right-of-way or TUP area (see § 2886.13 of this part);

(9) Comply with project-specific terms, conditions, and stipulations, including requirements to:

(i) Restore, revegetate, and curtail erosion or any other rehabilitation measure BLM determines is necessary;

(ii) Ensure that activities in connection with the grant or TUP comply with air and water quality standards or related facility siting standards contained in applicable Federal or state law or regulations;

(iii) Control or prevent damage to scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat, and to public and private property and public health and safety;

(iv) Protect the interests of individuals living in the general area who rely on the area for subsistence uses as that term is used in Title VIII of ANILCA (16 U.S.C. 3111 *et seq.*); and